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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/653,767	09/01/2000	Scott T. Allan	A-68678/MAK/LM	6140
30636	7590	06/26/2006	EXAMINER	
FAY KAPLUN & MARCIN, LLP 150 BROADWAY, SUITE 702 NEW YORK, NY 10038			OUELLETTE, JONATHAN P	
			ART UNIT	PAPER NUMBER
			3629	

DATE MAILED: 06/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/653,767	<b>Applicant(s)</b> ALLAN ET AL.	
	<b>Examiner</b> Jonathan Ouellette	<b>Art Unit</b> 3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2006 and 28 December 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-15, 26-61 and 63-73 is/are pending in the application.
- 4a) Of the above claim(s) 65, 66 and 71-73 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15, 26-61, 63, 64 and 67-70 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election without traverse of Claims 1-15, 26-61, 63, 64, and 67-70 (73 dependent on withdrawn Claim 72) in the reply filed on 3/31/2006 is acknowledged.

### *Claim Rejections - 35 USC § 102*

2. The rejection of Claims 60, 61, 63, and 64 under 35 U.S.C. 102(a) as being anticipated by Humble (WO 93/16443), is withdrawn due to Applicant's amendments.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
  - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
4. **Claims 1-13, 29-61, 63, 64, 68-70, 73 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sleeper (US 6,401,074).**
5. As per **independent Claims 1 and 68**, Sleeper discloses a method for displaying advertisements ("ads") at a point-of-sale (POS) location, the method (computer-readable medium) comprising: determining an advertisement for display and displaying the ad (Abstract, C1 L35-67, C2 L1-9).

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6. Sleeper fails to expressly disclose dividing a consumer transaction at a POS location into multiple time frames, a total duration of time frames equaling a total duration of the transaction; and determining/displaying an add in said time frame; and adjusting a duration of the ad based on whether the one of the time frames has ended.
7. However, Sleeper does disclose defining parts of a transaction (total transaction) by events, and displaying commercial information based on the event (C1 L35-67, C2 L1-9, C6 L50-67, C7 L1-8, C8 L9-27)
8. Furthermore, Sleeper discloses *showing different information/messages based on the event (abstract, equivalent to changing the ad based on the time frame/event).*
9. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included dividing a consumer transaction at a POS location into multiple time frames and determining/displaying an add in said time frame; and adjusting a duration of the ad based on whether the one of the time frames has ended, in the system disclosed by Sleeper, for the advantage of providing a method for displaying advertisements (“ads”) at a point-of-sale (POS) location, with the ability to increase customer response/attentiveness by displaying a relevant advertisement as the transaction progresses.
10. As per Claim 2, Sleeper discloses wherein the step of dividing a transaction into time frames comprises dividing the transaction into time frames, each of the time frames substantially spanning an activity performed during a transaction.
11. As per Claims 3 and 69, Sleeper discloses wherein the step of dividing a transaction into time frames comprises dividing the transaction into time frames, one of the time frames spanning one of the following transaction activities: waiting for a consumer to begin a transaction;

greeting a consumer; beginning a transaction; selecting a form of payment; swiping a card for a form of payment; entering a security code for the form of payment; identifying a product for purchase; displaying a total cost for products identified for purchase; signing for a transaction; and thanking a consumer for his purchase (all typical transaction events).

12. As per Claim 4, Sleeper discloses wherein the step of dividing a transaction into time frames (events) comprises dividing the transaction into time frames, each of the time frames spanning one of the following activities: waiting for a consumer to begin a transaction; greeting a consumer; beginning a transaction; selecting a form of payment; swiping a card for a form of payment; entering a security code for the form of payment; identifying a product for purchase; displaying a total cost for products identified for purchase; signing for a transaction; thanking a consumer for his purchase; surveying a consumer; promoting an event; applying for a credit card; informing a consumer; identifying a consumer; interacting with a consumer; and passing through an interstitial period (all typical transaction events).
13. As per Claim 5, Sleeper discloses wherein the step of dividing a transaction into time frames comprises dividing a consumer-product transaction into time frames (events).
14. As per Claims 6-8, Sleeper discloses wherein the step of dividing a transaction into time frames comprises dividing a bricks-and-mortar consumer-product transaction, e-commerce consumer-product transaction, or a consumer-service transaction, into time frames.
15. As per Claim 9, Sleeper discloses wherein the step of determining an ad display in one of the time frames comprises transmitting information about the transaction from the POS location to an ad-management service; determining on the ad-management service and based on the information, an ad for display; and receiving a response indicating the determined ad.

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16. As per Claim 10, Sleeper discloses wherein the step of transmitting comprises broadcasting information to multiple ad-management services.
17. As per Claim 11, Sleeper discloses wherein the step of determining an ad comprises determining an ad, having an identifier; and the step of receiving an indicative response comprises receiving the identifier for the determined ad and not the ad itself (tracking ad receipt, C9 L61-67, C10 L1-12).
18. As per Claim 12, Sleeper discloses caching the indicative response.
19. As per Claim 13, Sleeper discloses caching the indicative response and a targeting filter for the response; and subsequently applying the targeting filter to determine whether the ad indicated by the response is still appropriate for display.
20. As per Claim 29, Sleeper discloses wherein the step of determining an ad for display comprises reserving one of the time frames for ads for display without regard to transaction criteria; and when the one time frame is the reserved time frame, excluding all ads for display when the transaction meets predetermined criteria.
21. As per Claim 30, Sleeper discloses wherein the step of determining an ad for display comprises reserving all of the time frames for ads from a predetermined set of sponsors, the set having a size of one or more.
22. As per Claim 31, Sleeper discloses nonetheless determining an ad to display when the transaction meets predetermined criteria as the ad for display and preempting a reserved time frame with the determined ad.
23. As per Claim 32, Sleeper discloses wherein the step of displaying the ad comprises displaying the ad in the one time frame.

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24. As per Claim 33, Franklin discloses wherein the step of displaying the ad comprises displaying the ad in a time frame following the one time frame.
25. As per Claim 34, Sleeper discloses setting a minimum duration for the determined ad; and the step of displaying the advertisement comprises displaying the ad for that minimum duration.
26. As per Claim 35, Sleeper discloses setting a system-wide minimum ad duration; and setting a minimum ad duration for the ad, the minimum ad duration a natural-number multiple of that system-wide minimum ad duration; and the step of displaying the advertisement comprises displaying the ad for that minimum ad duration.
27. As per Claim 36, Sleeper discloses wherein the step of displaying the advertisement comprises displaying the beginning of the ad but not the end of the ad.
28. As per Claim 37, Sleeper discloses wherein the step of displaying the advertisement comprises displaying the beginning of the ad but not its end due to an action of a consumer.
29. As per Claim 38, Sleeper discloses setting a minimum duration for the determined ad; and the step of displaying the advertisement comprises displaying the ad longer than that minimum duration due to an action of a consumer.
30. As per Claim 39, Sleeper discloses wherein the step of displaying comprises displaying the determined ad and another ad in the one time frame.
31. As per Claim 40, Sleeper discloses wherein the step of displaying comprises displaying in the one time frame the determined ad, having a first sponsor, and the other ad, having a sponsor different from the first sponsor.
32. As per Claim 41, Sleeper discloses responding to the ad.

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33. As per Claim 42, Sleeper discloses wherein the step of responding to the ad comprises indicating one of consent and lack of consent to a proposition of the ad.
34. As per Claim 43, Sleeper discloses wherein the step of responding to the ad comprises indicating one of consent and lack of consent to a proposition of the ad by activating an input device at the POS location.
35. As per Claim 44, Sleeper discloses recording a representation of the response.
36. As per Claim 45, Sleeper discloses communicating a representation of the response to a computer system for collecting responses.
37. As per Claim 46, Sleeper discloses repeating the steps of determining and displaying an ad.
38. As per Claim 47, Sleeper discloses advancing from the one time frame into another time frame; and repeating the steps of determining and displaying an ad with the other time frame.
39. As per Claim 48, Sleeper discloses wherein the step of advancing comprises activating an input device at the POS location; and in response, advancing from the one time frame into the other time frame.
40. As per Claim 49, Sleeper discloses wherein the step of advancing comprises commanding from a POS system advancement from the one frame; and in response, advancing from the one time frame into the other time frame.
41. As per Claim 50, Sleeper discloses wherein the step of advancing comprises recognizing that activity that the one frame spans has ended; and in response, advancing from the one time frame into the other time frame.

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42. As per Claim 51, Sleeper discloses wherein the step of advancing comprises recognizing that a timeout has occurred; and in response, advancing from the one time frame into the other time frame.
43. As per Claim 52, Sleeper discloses repeating the steps of determining and displaying an ad with successive ones of the multiple time frames until the transaction completes.
44. As per Claim 53, Sleeper discloses repeating the method from the step of dividing with a subsequent transaction.
45. As per Claim 54, Sleeper discloses repeating the steps of determining and displaying an ad with successive ones of the multiple time frames until a following transaction begins.
46. As per Claim 55, Sleeper discloses where the displayed ad was an ad for display when the transaction met predetermined criteria, disqualifying that ad from displaying again in the transaction.
47. As per Claim 56, Sleeper discloses where the displayed ad **was** an ad that is for display without regard to the specifics of the transaction and that originated in an ad-management service, disqualifying that ad from displaying again in the transaction.
48. As per Claim 57, Sleeper discloses receiving a first ad for display without regard to whether a transaction meets predetermined criteria.
49. As per Claim 58, Sleeper discloses wherein the step of receiving the first ad is performed before the step of dividing the transaction.
50. As per Claim 59, Sleeper discloses wherein the step of receiving the first ad comprises receiving, at a predetermined interval, ads for display without regard to whether a transaction meets predetermined criteria during the transaction.

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51. As per independent Claim 60, Sleeper discloses a method for displaying advertisements (“ads”) at a point-of-sale (POS) location, the method comprising: receiving a first ad (message) for display during a first time frame (event) and without regard to whether the transaction meets predetermined criteria (Abstract, C1 L35-67, C2 L1-9); then engaging in the transaction; during the transaction, receiving a second ad for display during a second time frame when the transaction meets predetermined criteria (messages corresponding to events) (Abstract, C1 L35-67, C2 L1-9).
52. Sleeper fails to expressly disclose dividing a consumer transaction at a POS location into multiple time frames, a total duration of time frames equaling a total duration of the transaction; and determining/displaying an add in said time frame; and adjusting a duration of the ad based on whether the one of the time frames has ended.
53. However, Sleeper does disclose defining parts of a transaction (total transaction) by events, and displaying commercial information based on the event (C1 L35-67, C2 L1-9, C6 L50-67, C7 L1-8, C8 L9-27)
54. Futhermore, Sleeper discloses *showing different information/messages based on the event (abstract, equivalent to changing the ad based on the time frame/event).*
55. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included dividing a consumer transaction at a POS location into multiple time frames and determining/displaying an add in said time frame; and adjusting a duration of the ad based on whether the one of the time frames has ended, in the system disclosed by Sleeper, for the advantage of providing a method for displaying advertisements (“ads”) at a point-of-sale (POS) location, with the ability to increase customer

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56. As per Claim 61, Sleeper discloses wherein the steps of receiving the first ad for display comprises receiving, at a predetermined interval, ads for display without regard to whether the transaction meets predetermined criteria during the transaction.
57. As per Claim 63, Sleeper discloses during the transaction, displaying the second ad.
58. As per Claim 64, Sleeper discloses during the transaction, displaying the first and second ads.
59. As per Claim 70, Sleeper discloses a POS system displaying advertisement (“ads”) comprising: the computer-readable medium of claim 68; a CPU for executing the program in the medium; a bus, communicatively coupling the medium ad the CPU; and a display, responsive to commands from the CPU.
60. **Claims 14-15 and 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sleeper in view of Dejaeger et al. (US 6,456,981 B1).**
61. As per Claim 14, Sleeper fails to expressly disclose wherein the step of determining an ad for display comprises prioritizing multiple ads competing for display, producing an ad with highest priority; determining the ad with highest priority as the ad for display.
62. However, Dejaeger discloses compiling a database of advertising material for display at a POS system, and selectively picking adds to provide the consumer (C12 L25-53). Furthermore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to selectively draw the advertisements based on a priority structure (i.e.: paid advertisers over store information, etc.).
63. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included wherein the step of determining an ad for display comprises prioritizing multiple ads competing for display, producing an ad with highest

priority; determining the ad with highest priority as the ad for display, as disclosed by Dejaeger, in the system disclosed by Sleeper, for the advantage of providing a method for displaying advertisements (“ads”) at a point-of-sale (POS) location, with the ability to increase customer response/attentiveness by displaying a relevant advertisement as the transaction progresses and by allowing additional revenue channels through advertisement charges.

64. As per Claim 15, Sleeper discloses wherein the step of prioritizing multiple competing ads comprises setting the priority of an ad for display when the transaction meets predetermined criteria (a “specific ad”) higher than the priority of an ad for display when no specific ad is available.

65. As per Claim 26, Sleeper discloses displaying the determined ad; determining the next highest-priority ad, if any, as the ad for display.

66. As per Claim 27, Sleeper discloses wherein the step of determining further comprises overriding the determination of the highest-priority ad as the ad for display.

67. As per Claim 28, Sleeper discloses wherein the step of determining further comprises overriding the determination of the highest-priority ad as the ad for display at most once per transaction.

68. **Claim 67 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sleeper in view of Dejaeger, and further in view of Kolls (US 6,615,183)**

69. As per **independent Claim 67**, Sleeper discloses a method for displaying advertisements (“ads”) at a point-of-sale (POS) location, the method comprising: transmitting information about a transaction to an ad-management service; determining on the ad-management

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service, based on the information, an ad for display; receiving a response indicating the service, based on the information, an ad for display (Abstract, C1 L35-67, C2 L1-9); receiving a response indicating the service-determined ad; producing an ad when the transaction meets predetermined criteria; displaying the determined ad in one of (1) a one time frame and (2) a frame following the one time frame from its beginning but not through its end due to an action of a consumer but other wise from its beginning through its end; and repeating the steps of determining and displaying an ad with successive ones of the multiple time frames (events) until the transaction completes (Abstract, C1 L35-67, C2 L1-9).

70. Sleeper fails to expressly disclose dividing a transaction into time frames, a total duration of the time frames equaling a total duration of the transaction, each of the time frames spanning one of the following activities: waiting for a consumer to begin a transaction; greeting a consumer; beginning a transaction; selecting a form of payment; swiping a card for a form of payment; entering a security code for the form of payment; identifying a product for purchase; displaying a total cost for products identified for purchase; signing for a transaction; thanking a consumer (for) his purchase; surveying a consumer; promoting an event; applying for a credit card; informing a consumer; identifying a consumer; interacting with a consumer; and passing through an interstitial period; and if the ad is displayed in the one time frame, adjusting a duration of the ad based on whether the one time frame has ended.

71. However, Sleeper does disclose defining parts of a transaction by events, and displaying commercial information based on the event (C1 L35-67, C2 L1-9, C6 L50-67, C7 L1-8, C8 L9-27).

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72. Furthermore, Sleeper discloses *showing different information/messages based on the event (abstract, equivalent to changing the ad based on the time frame/event)*.

73. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included dividing a transaction into, each of the time frames spanning one of the following activities: waiting for a consumer to begin a transaction; greeting a consumer; beginning a transaction; selecting a form of payment; swiping a card for a form of payment; entering a security code for the form of payment; identifying a product for purchase; displaying a total cost for products identified for purchase; signing for a transaction; thanking a consumer (for) his purchase; surveying a consumer; promoting an event; applying for a credit card; informing a consumer; identifying a consumer; interacting with a consumer; and passing through an interstitial period; and if the ad is displayed in the one time frame, adjusting a duration of the ad based on whether the one time frame has ended, in the system disclosed by Sleeper, for the advantage of providing a method for displaying advertisements (“ads”) at a point-of-sale (POS) location, with the ability to increase customer response/attentiveness by displaying a relevant advertisement as the transaction progresses.

74. Sleeper also fails to expressly disclose prioritizing any ads competing for display, producing an ad with highest priority, by setting the priority of an ad for display when the transaction meets predetermined criteria (a “specific ad”) higher than the priority of an ad for display when no specific ad is available; determining the ad with highest priority as the ad for display.

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75. However, Dejaeger discloses compiling a database of advertising material for display at a POS system, and selectively picking adds to provide the consumer (C12 L25-53).

Furthermore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to selectively draw the advertisements based on a priority structure (i.e.: paid advertisers over store information, etc.).

76. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included prioritizing any ads competing for display, producing an ad with highest priority, by setting the priority of an ad for display when the transaction meets predetermined criteria (a “specific ad”) higher than the priority of an ad for display when no specific ad is available; determining the ad with highest priority as the ad for display, as disclosed by Dejaeger, in the system disclosed by Sleeper, for the advantage of providing a method for displaying advertisements (“ads”) at a point-of-sale (POS) location, with the ability to increase customer response/attentiveness by displaying a relevant advertisement as the transaction progresses and by allowing additional revenue channels through advertisement charges.

77. Finally, Although Sleeper does disclose the ability to obtain user input (C12, L19-25), and Dejaeger discloses recording survey results related to advertisements; Sleeper and Dejaeger fail to expressly disclose recording a representation of any response to the ad.

78. However, Kolls discloses recording a representation of any response to a POS ad (Claim 1).

79. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included recording a representation of any response to the ad as discloses by Kolls, in the system disclosed by Dejaeger, in the system disclosed by Sleeper,

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for the advantage of providing a method for displaying advertisements (“ads”) at a point-of-sale (POS) location, with the ability to increase customer service by tracking customer interactions with the POS advertising and developing marketing plans with the tracked information.

*Response to Arguments*

80. Applicant's arguments with respect to Claims 1-15, 26-61, 63, 64, and 67-70 have been considered have been fully considered but are moot in view of the new ground(s) of rejection. The rejection will remain as **NON-FINAL**.
81. The applicant has made the argument that the prior art of Sleeper fails to teach or suggest adjusting a duration of the ad based on whether the one of the time frames has ended.
82. However, Sleeper discloses showing different information/messages based on the event (Abstract); which would be equivalent to changing the ad based on the time frame/event, as the messages are dependent on the events, therefore, the length of the event dictates the length of the message.

*Conclusion*

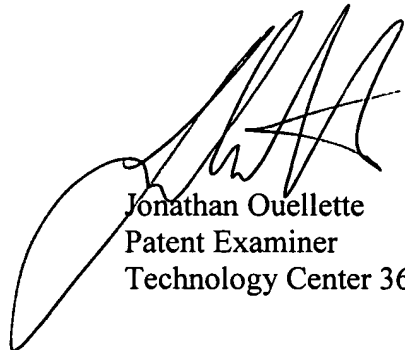
83. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Ouellette whose telephone number is (571) 272-6807. The examiner can normally be reached on Monday through Thursday, 8am - 5:00pm.
84. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone numbers for the organization

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where this application or proceeding is assigned (571) 273-8300 for all official communications.

85. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Office of Initial Patent

June 21, 2006



Jonathan Ouellette  
Patent Examiner  
Technology Center 3600